

FINDING OF EMERGENCY

These regulations are being implemented on an emergency basis for the immediate preservation of the public peace, health and safety, or general welfare, within the meaning of Government Code Section 11346.1.

DESCRIPTION OF SPECIFIC FACTS WHICH CONSTITUTE THE EMERGENCY

The following facts constitute the emergency:

1. Since the enactment of the Refugee Act of 1980, persons granted asylum, "asylees," have legally been eligible for the same resettlement and medical assistance granted to refugees admitted to the United States (U.S.) for resettlement. However, very few asylees have ever been able to take advantage of this assistance because up to now the federal Office of Refugee Resettlement began the eligibility clock from the time the asylee entered the U.S. Few people fleeing persecution apply for asylum immediately upon entry to the country since it takes time to find a lawyer, develop the detailed asylum application, and file the application. Then it usually takes a few months for the Immigration and Naturalization Service (INS) to interview the asylum seeker, consider the case and grant asylum; by that time, the current eight-month eligibility period for resettlement assistance would either have expired or nearly so. These emergency regulations change the eligibility starting date for asylees to the date they are granted asylum rather than the date they entered the U.S. therefore making it possible for persons granted asylum to access refugee resettlement assistance and benefits. By changing the eligibility starting date, and permitting these persons (many of whom are victims of persecution) to access assistance and services, these individuals can more readily escape destitution, regain their dignity, and achieve economic self-sufficiency more quickly.
2. These regulations enable county welfare departments to provide cash assistance and services under the Refugee Resettlement Program to refugees/entrants who would otherwise be determined ineligible because they are lacking complete documentation. If the eligibility worker (EW) cannot easily make an eligibility determination based on a refugee's/entrant's available information, these regulations enable the EW to provide Refugee Cash Assistance and benefits to the refugee/entrant while the EW conducts a further investigation. Without this regulation change, newly-arriving refugees/entrants who have had to flee their country of origin and lost everything in the process will be denied basic needs such as food, housing, clothing, and jobs for an uncertain period of time because of lack of complete documentation that may definitively confirm eligibility.
3. These regulations enable California to operate a publicly-administered Refugee Cash Assistance program consistent with the state's California Work Opportunity and Responsibility to Kids (CalWORKs) program in regard to determination of eligibility, treatment of income and resources, benefit levels and budgeting methods. Current regulations provide that the RCA program follow the state's previous financial eligibility

and payment standard program (Aid to Families with Dependent Children [AFDC]). The proposed RCA program regulations are the exceptions to the CalWORKs regulations and the current RCA program regulations are the exceptions to the AFDC regulations. California counties have been and are forced to maintain and apply two separate and distinctly different sets of program policies and procedures for their RCA and CalWORKs clients even though RCA eligibility and grants are determined across the state by TANF/CalWORKs workers and automated systems. Aside from the fact that this has been extremely cumbersome and costly, counties are attempting to maintain the RCA program based on the AFDC regulations which have not existed since the passage of the Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA [P.L. 104-193]) of 1996 that replaced AFDC. Without emergency regulations, CWDs must continue to operate the RCA program based on a nonexistent program with outdated regulations and waivers. In addition to this process being costly and cumbersome, the chances for errors in eligibility determinations for RCA applicants are extremely high.

4. Internal Social Security Administration (SSA) procedures for asylees and Cuban and Haitian entrants often deter these individuals from applying for and receiving social security numbers for several months after they receive their status. These regulations ensure that CWD's cannot deny RCA and services to asylees and Cuban and Haitian entrants who have not yet received their social security numbers. Similarly, CWDs cannot deny RCA and services to any eligible applicant because he/she does not have a social security number.
5. Upon arrival, refugees are provided services through a program of grants, called Cooperative Agreements, made by the U.S. Department of State to qualifying agencies. These grantee agencies are responsible to provide initial "nesting" services covering basic food, clothing, and shelter. From the date of entry to the U.S., refugees are eligible for Office of Refugee Resettlement-funded assistance through the county welfare department. Currently, prior to the CWD approving aid for these refugees, the CWD must contact the responsible voluntary resettlement agency and inquire as to what assistance, if any, was provided to the refugee. Cash assistance is then counted against the eligibility determination of the cash assistance payment. This regulation eliminates this requirement. The CWD may no longer consider any cash grant provided to the applicant under a voluntary resettlement agency reception and placement program in determining income eligibility for RCA. This new regulation enables refugees to have a higher monthly maximum aid payment. The higher payment will increase their ability to achieve economic self-sufficiency and social adjustment by providing the basic necessities that contribute to attaining employment.
6. These regulations enable the RCA program exemption criteria to be consistent with the CalWORKs exemption criteria which means that RCA refugees will be treated more equitably with the general welfare population. For example, currently, refugees receiving RCA are exempt from participating in employment and training services after age 65. These regulations align the age exemption with CalWORKs which is 60, and allows a pregnant woman who is supported by medical verification to be exempt as long as her pregnancy impairs her ability to be regularly employed or participate in training activities.

7. Delay in the implementation of these regulations could jeopardize the health, safety and well-being of newly arriving refugees. Refugees are persons who have left a country of origin because of a well-founded fear of persecution on account of race, religion, nationality, membership in particular social groups or political opinion. Refugees are characterized as a group of people that have lost everything. They have often experienced violence and flight; they have been tortured or seen their loved ones killed; they may have been starved, beaten, or exposed to a variety of infectious diseases; the women may have been raped; they may have lived in refugee camps and exposed to extreme harassment. When these refugees reach the safety of the United States, their needs should be addressed as quickly as possible without the hindrance of bureaucratic delays.
8. Therefore, in order to protect the health, safety and well-being of persons aided by the RCA/ECA program in California, these regulations are adopted on an emergency basis to be effective upon filing with the Secretary of State.

INFORMATIVE DIGEST

New federal regulations provide states with the option of operating a publicly administered Refugee Cash Assistance (RCA)/Entrant Cash Assistance (ECA) program consistent with the provisions of each state's Temporary Aid to Needy Families (TANF) Program with regard to determination of eligibility, treatment of income and resources, benefit levels and budgeting methods. This will allow California counties to operate their RCA programs in accordance with the California Work Opportunity and Responsibility to Kids (CalWORKs) program instead of the obsolete Aid to Families with Dependent Children (AFDC) program. California counties have been and are forced to maintain and apply two separate and distinctly different sets of program policies and procedures for their RCA and CalWORKs clients even though RCA eligibility and grants are determined across the state by TANF/CalWORKs workers and automated systems.

Current regulations allow persons granted asylum the same resettlement and medical assistance granted to refugees admitted for resettlement. However, very few asylees have ever been able to take advantage of this assistance because up to now the federal Office of Refugee Resettlement began the eligibility clock from the time the asylee entered the U.S. These emergency regulations change the eligibility starting date for asylees to the date they are granted asylum rather than the date they entered the U.S. making it possible for persons granted asylum to more readily access refugee resettlement assistance and benefits.

Current internal Social Security Administration (SSA) procedures for RCA clients, asylees and Cuban and Haitian entrants often deter these individuals from applying for and receiving social security numbers for several months after they receive their status. These regulations ensure that CWD's cannot deny RCA and services to asylees and Cuban and Haitian entrants.

Currently, prior to the CWD approving aid for refugees, the CWD must contact the responsible voluntary resettlement agency and inquire as to what assistance, if any, was provided to the refugee. This assistance is then counted against the eligibility determination of the cash assistance payment. These regulations change this process. The CWD may no longer consider

any cash grant provided to the applicant by a voluntary resettlement agency reception and placement program in determining income eligibility for RCA.

Also, since regulations relating to refugee services programs are not amended regularly, obsolete program references and current terminology are being amended at this time. These amendments include updating the term "Aid to Families with Dependent Children (AFDC)" to "California Work Opportunity and Responsibility to Kids (CalWORKs)" as a result of AB 1542, Chapter 270, Statutes of 1997 and updating the Department's acronym from "DSS" to "CDSS." In addition, nonsubstantive renumbering and reformatting is being done for clarity and to make the regulations more user friendly.

COST ESTIMATE

1. Costs or Savings to State Agencies: No fiscal impact exists because this regulation does not affect any state agency or program.
2. Costs to Local Agencies or School Districts: No fiscal impact exists because this regulation does not affect any local entity or program.
3. Nondiscretionary Costs or Savings to Local Agencies: None.
4. Federal Funding to State Agencies: Funding for these regulation changes is included in the Fiscal Year 2001-02 appropriation of \$4,951,000 for the Refugee Cash Assistance Program.

LOCAL MANDATE STATEMENT

These regulations do impose a mandate upon local agencies, but not on school districts. There are no "state-mandated local costs" in these regulations which require state reimbursement under Sections 17500 et seq. of the Government Code because any costs associated with the implementation of these regulations are costs mandated by the federal government within the meaning of Section 17513 of the Government Code.

AUTHORITY AND REFERENCE CITATIONS

CDSS adopts these regulations under the authority granted in Welfare and Institutions Code Sections 10553 and 10554. Subject regulations implement and make specific Welfare and Institutions Code Sections 10553 and 10554; 45 CFR Sections 400 and 401; Federal Office of Refugee Resettlement (ORR) Letter #00-17, dated September 14, 2000; Federal Office of Refugee Resettlement Letter #00-23, dated November 16, 2000; Federal Office of Refugee Resettlement State Letter, dated September 3, 1993; Federal Office of Refugee Resettlement State Letter, dated October 16, 1992; Federal Office of Refugee Resettlement State Letter, dated July 6, 1989; and Letter to H. Gary Mounts, Deputy Associate Administrator, ORR, dated March 4, 1988.